

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

JIDONG ZHANG, §
§
Plaintiff, §
§
vs. § CASE NO. CIV-16-1044-SLP
§
TIPTOP ENERGY PRODUCTION §
U.S., LLC, a limited liability company, §
§
Defendant. §

**DEFENDANT'S RESPONSE IN OPPOSITION TO PLAINTIFF'S
MOTION FOR LEAVE TO FILE OVERSIZED BRIEF**

Defendant Tiptop Energy Production U.S., LLC (“Tiptop”) opposes plaintiff’s motion to file an oversized brief in response to its summary-judgment motion. (Dkt. No. 61).

1. This is a single-plaintiff employment-discrimination case. Jidong Zhang claims that Tiptop discriminated against her because of gender (including pregnancy) and national origin, created a hostile work environment, retaliated against her, and constructively discharging her. (Dkt. No. 1.).

2. On January 8, 2018, Tiptop moved for summary judgment on all of Zhang’s claims in compliance with the 30-page limit mandated by the Local Rules. (Dkt. No. 32).

3. Zhang’s original response deadline was January 29, 2018. *See* W.D. Okla. Civ. R. 7.1(g).

4. Without Tiptop’s objection, Zhang sought and received three separate extensions, with the final deadline set for March 26, 2018. (Dkt. Nos. 36, 38, 40).

5. On March 23, 2018, despite having *11 weeks* (instead of the typical three weeks) to prepare her response, Zhang filed a 52-page brief, which exceeds the limit by nearly 75 percent. (Dkt. No. 43); *see* W.D. Okla. Civ. R. 7.1(e).

6. On March 26, 2018, the Court struck the brief for exceeding the page limit without leave of Court. (Dkt. No. 60).

7. Zhang now seeks leave to file an oversized brief that exceeds the page limit by 22 pages, stating that she misinterpreted the Local Rules. Pl.'s Mot. ¶ 3 (Dkt. No. 61).

8. In support of the motion, Zhang then explains:

The additional pages are needed by Plaintiff in order to adequately respond to the Defendant's Motion in order to include all of the needed references to the evidence submitted, including excerpts from six (6) separate depositions, along with a number of evidentiary exhibits, and to adequately address the arguments and issues raised.

Id. ¶ 5.

9. Although Tiptop would not have opposed a request for leave to file a brief that exceeds the page limit by five or even ten pages, *see id.* ¶ 8, Zhang's 22-page request is unreasonable and should be denied. Tiptop recited the relevant facts in less than seven pages; Zhang dedicated about 20 pages to do so. And like Zhang, Tiptop cited to six deposition transcripts and other evidentiary exhibits to support its arguments, but unlike Zhang, did so without exceeding the page limit.

10. The magnitude of Zhang's briefing excess prejudices Tiptop by compelling it to analyze and rebut nearly 75 percent more content than authorized by the Local Rules. Thus, Zhang's extra briefing not only would increase the time and cost for Tiptop to reply appropriately, but also it would unnecessarily burden the Court's staff and

resources. And those consequences would be exacerbated, not cured, if Tiptop sought and obtained leave to file a similarly oversized reply.

11. In addition, Zhang's motion is untimely. Local Rule 7.1(e) provides that “[m]otions for leave to file oversized briefs . . . shall be filed no later than one business day prior to the date the brief is due.” Zhang's response deadline is March 26, 2018, the same day she filed her motion for leave.

12. “The district court has considerable latitude in interpreting and applying its local rules.” *Dzula v. U.S.*, 349 F. App'x 335, 339 (10th Cir. 2009).

13. Tiptop therefore respectfully requests the Court exercise its discretion and deny Plaintiff's motion for leave to file an oversized response to Tiptop's summary-judgment motion. *In re Wilkinson*, 961 F.2d 221 (10th Cir. 1992) (holding that the district court did not abuse its discretion in denying motion for leave to file an oversized brief), *affirming in part, vacating in part Burger King Corp. v. Wilkinson*, 98 B.R. 550, 552 (D. Kan. 1989) (reasoning that the motion exceeded the page limit “unnecessarily”).

Dated: March 26, 2018.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served by the Court's electronic filing system on this 26th day of March, 2018 on all counsel of record as listed below:

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